Category: Obligation to Provide Access to Legal Remedies

Sub-Category: Regional Tribunals and Mechanisms

Name of Good Practice: Environmental Jurisprudence of the **European Court of Human Rights**

Key Words: Access to Justice, Jurisprudence, Regional, Tribunal

Implementing Actors: Court: European Court of Human Rights

Location: Europe

Description: The European Court of Human Rights (ECHR), based in Strasbourg, was established in 1959 with the mandate to review alleged violations of the civil and political rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Since 1998, individuals can apply to the Court directly. The Court and the Convention are an essential part of the European human rights system framed by the 47 Member States of the Council of Europe.

Although there is no explicit right to a healthy environment in the European Convention, the Court has developed a strong jurisprudence on environmental issues through its interpretation of civil and political rights in the Convention. Specifically, ECHR case law has addressed environmental issues as components of Articles 2 (“right to life”) and 8 (“right to respect of private and family life”) of the Convention, as well as Article 10 (“right to receive and impart information”) and Article 1 of Protocol no. 1 of the Convention and procedural rights such as the right to an effective remedy (Articles 6.1 and 13). For example, in a series of cases construing the right to privacy, including *Lopez Ostra v Spain* (1994) and *Taşkin* v. *Turkey* (2004), the ECHR has held that States have certain procedural obligations, including that they must follow a decision-making process that includes “appropriate investigations and studies”, gives the public access to information, and provides those concerned effective legal remedies. The Court has also set out substantive obligations on States, such as in *Öneryıldız v. Turkey* (2004), finding that States have a primary duty to put in place a legislative and administrative framework that protects against and responds to infringements of the right to life as a result of natural disasters and of dangerous activities, including the operation of chemical factories and waste-collection sites. In cases such as *Hatton v. United Kingdom* (2003), the European Court has held that States have discretion to strike a balance between environmental protection and other issues of societal importance, such as economic development and the rights of others.

Further Information: See the ECHR’s website: <http://www.echr.coe.int/>; the Independent Expert’s Individual Report on the European Convention on Human Rights and the European Union, <http://ieenvironment.org/mapping-report-2014-2/>; Council of Europe, Manual on Human Rights and the Environment: <http://www.coe.int/t/dghl/standardsetting/hrpolicy/Other_Committees/GT-DEV-ENV_docs/Manual_Env_2012_nocover_Eng.pdf>.